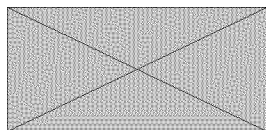


**To:** Tucker, William[Tucker.William@epa.gov]  
**From:** Environmental Law360  
**Sent:** Tue 5/31/2016 8:23:11 AM  
**Subject:** 5th Circ. Revives Enviros' \$641M Exxon Pollution Suit



## ENVIRONMENTAL

Tuesday, May 31, 2016

### TOP NEWS

LAW  
FIRMS

#### 5th Circ. Revives Enviros' \$641M Exxon Pollution Suit

Akin  
Gump

Exxon Mobil Corp. will have to face a \$641 million suit brought by environmentalists over emissions at its Baytown, Texas, refinery, the Fifth Circuit said Friday in an opinion that panned portions of the trial court's ruling in Exxon's favor as "irreconcilably inconsistent."

Alexand  
Dubose

#### Feds Give Thumbs-Up To Pacific Offshore Fracking

Axinn  
Veltrop

U.S. offshore regulators on Friday revived permitting hydraulic fracturing and other drilling activities in the Pacific Ocean after concluding those activities won't significantly impact the environment, a move blasted by environmentalists who vowed to take the government to court.

Babst  
Calland

#### DOE Yanks \$40M Funding For Dominion Offshore Wind Project

Baker  
&  
McKen

A proposed \$380 million wind project off the coast of Virginia being developed by a Dominion Resources Inc. unit on Friday lost \$40 million in potential funding from the U.S. Department of Energy, a move that puts the project's future in question, the company said.

BakerH  
Bancro  
PLLC

#### Exxon, Others Beat Time-Barred MTBE Claims At Vt. Top Court

Barclay  
Damon

The Supreme Court of Vermont on Friday refused to revive claims brought by the state's attorney general against Exxon Mobil Corp. and a host of other gasoline companies over methyl tertiary-butyl ether groundwater contamination in the state, finding them time-barred.

Baron  
&  
Budd

#### 9th Circ. Revives Enviros' Suit Over Ore. Wind Farm

Beck  
Redder

The Bureau of Land Management dropped the ball in its environmental review for an Oregon wind farm project, the Ninth Circuit said in a published opinion Thursday, finding the agency relied on faulty data and reasoning when it determined greater sage grouse didn't live in the area during the winter.

Blank  
Rome

#### Sierra Club Asks Okla. High Court To Sink Coal Plant Revamp

Bracew  
LLP

The Sierra Club on Thursday asked the Oklahoma Supreme Court to reverse a state

Bryan

regulator's decision allowing Oklahoma Gas and Electric Co. to retrofit a coal power plant with \$500 million in pollution controls, saying the plan is unfair to ratepayers. [LAW FIRMS](#)

## ANALYSIS

[Akin  
Gump](#)

### **Pa. DEP Boss's Exit Could Pave Way For Gas Rule Changes**

[Alexand  
Dubose](#)

A path toward amending controversial new rules on gas drilling may be clearing after Pennsylvania's top environmental official, who's faced criticism for his unwillingness to compromise on the regulations, suddenly resigned this month following the release of a profanity-laced email he sent urging advocacy groups to back his agenda.

[Axinn  
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Calland](#)

### **5 Tips For Energy Cos. Looking To Tap Into Mexico**

While landmark reforms opening up Mexico's energy sector have largely been implemented, energy companies looking to dive into the country's market must be mindful of still uncharted territory, from continually developing regulations to more complicated land use policies. Here, attorneys offer five pieces of advice for energy firms looking to make their mark in Mexico.

[Baker  
&  
McKen  
BakerH](#)

### **US Tribes Down But Not Out Of Canadian Pipeline Fight**

Opponents of Kinder Morgan's proposed \$5.4 billion Trans Mountain Pipeline expansion were dealt a setback when Canadian energy regulators recently endorsed the project, but U.S. tribes are hoping their unusual push north of the border can convince Canadian officials to cancel the plan.

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PLLC](#)

[Barclay  
Damon](#)

## POLICY & REGULATION

[Baron  
&  
Budd](#)

### **Sens. Say DOI Must Weigh Coal Leasing's Climate Risks**

A group of 14 Senate Democrats on Friday urged the Department of the Interior to consider the environmental impacts of coal as it revises the federal coal leasing program, saying the effects of climate change in relation to the program have been largely ignored in the past.

[Beck  
Redder](#)

[Blank  
Rome](#)

### **Washington State, Tribes Reach Salmon Fisheries Agreement**

A Washington agency and a group of Native American tribes in the state on Thursday reached an agreement on salmon fishing in Puget Sound for 2016, after a failure to reach an agreement in April led to further negotiations, according to a joint statement.

[Bracew  
LLP](#)

[Bryan  
Cave](#)

## ENFORCEMENT

[Buchan  
Ingerso](#)

### **Ex-NY Senate Leader Skelos Appeals Corruption Conviction**

Former New York State Senate majority leader Dean Skelos on Thursday launched an appeal of his conviction and five-year prison sentence for using his powerful position in Albany to solicit illegal payments from real estate, insurance and environmental consulting

[Clifford  
Chance](#)

[Cory  
Watson](#)

[Cozen](#)

businesses.

LAW  
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## LITIGATION

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### **Texas Justices Say Water Drillers Can't Ignore Land Rights**

Alexand  
Dubose

Texas' high court held for the first time Friday that a doctrine requiring oil and gas lessees to accommodate surface owners' rights also applies to groundwater disputes, favoring a ranch in litigation over whether a Texas city can drill wells to reach a severed groundwater estate.

Axinn  
Veltrop

### **DuPont Can't Get 'Last Word' On Cancer Trials, Court Told**

Babst  
Calland

Lawyers leading multidistrict litigation against Teflon maker DuPont over a pollution-related cancer cluster urged an Ohio federal court Thursday not to let the company get the "last word" on who selects dozens of cases slated for 2017 trials, just as they prepare to launch a key bellwether trial on Tuesday.

Baker  
&  
McKen

### **Metal Co. Wants Frivolous Appeal Damages In Air Permit Suit**

BakerH

Mississippi Silicon LLC urged the Fifth Circuit on Thursday to slap a rival metal company with damages for bringing what it called a frivolous appeal, saying the competitor's citizen suit under the Clean Air Act was really about waging "economic warfare."

Bancro  
PLLC

### **Seneca Says Fed. Law Preempts Pa. Town's Waste Well Rule**

Barclay  
Damon

Seneca Resources Corp. urged a federal judge Friday not to chuck its suit seeking to strike down a Pennsylvania township's ordinance blocking its fracking disposal wells, saying federal law preempts the locality's rule.

Baron  
&  
Budd

### **Enviros Appeal To 9th Circ. In Aussie LNG Loan Suit**

Beck  
Redder

Environmentalists on Thursday said they'll ask the Ninth Circuit to overturn a California federal judge's decision not to block the U.S. Export-Import Bank from completing two loans worth \$4.8 billion to two Australian liquefied natural gas projects in the Great Barrier Reef.

Blank  
Rome

### **3rd Circ. Sides With Insurer That Rejected Pollution Claims**

Bracew  
LLP

The Third Circuit on Thursday concluded that a group of policyholders was not harmed when Nationwide Insurance cut off its coverage after defending the group for years in an underlying property pollution lawsuit, finding that the insurer had properly reserved its right to do so.

Bryan  
Cave

### **Wis. AG Takes Issue With Verso's \$2.5B Ch. 11 Plan**

Buchan  
Ingerso

Wisconsin's attorney general took issue with Verso Corp.'s Chapter 11 plan Friday, arguing that broad injunction clauses in the strategy interfere with the state's right to enforce its environmental policies and that it improperly sets the Delaware bankruptcy court as the venue to resolve such disputes.

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Chance

Cory  
Watson

## EXPERT ANALYSIS

Cozen

LAW  
FIRMS

## **Start-Of-Construction Update Should Benefit Clean Energy**

The latest “start of construction” guidance makes it easier for renewable energy developers to satisfy the IRS’ requirements for the production tax credit, and will likely result in more projects being constructed with the associated increase in environmental and economic benefits, say attorneys with Mayer Brown LLP.

Akin  
Gump

Alexand  
Dubose

## **Behind The Curtain: Technical Advisers In Complex Cases**

During complex litigation, litigants often retain consulting experts to help them understand any intricate aspects of social and natural sciences present in a case, but the federal rules provide no such mechanism for the presiding judge. That is where technical advisers come in, say attorneys at K&L Gates LLP.

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Veltrop

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Baker  
&  
McKen

## **LEGAL INDUSTRY**

## **5 Signs You'll Never Excel In BigLaw**

Modern priorities like finding a work-life balance might be a newer factor discouraging careers in BigLaw, but the industry has always been especially tough on individuals who work better on their own, as well as those who struggle to market themselves, experts say. Here are five dead giveaways that an attorney won’t succeed in BigLaw.

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PLLC

Barclay  
Damon

## **May The Law Be With You: Become A Legal Jedi With Star Wars**

Star Wars has been called many things — a rousing space opera, a story of fathers and sons, a rollicking adventure story — but a way to understand constitutional law has rarely been one of them. One of America’s top law professors is trying to change that.

Baron  
&  
Budd

Beck  
Redder

## **Justices Divided: 3 Cases That May Tie Up The High Court**

With rulings still pending on contentious issues from abortion to immigration, the last few weeks of the Supreme Court’s term promise to pack a punch, as the divided bench works to resolve its toughest cases with only eight justices. Here are three cases to watch as the Supreme Court closes the book on this term.

Blank  
Rome

Bracew  
LLP

## **Gibson Dunn DQ Shows Danger Of Handling Privileged Emails**

A California state judge recently disqualified Gibson Dunn as defense counsel for McDermott Will & Emery LLP in a malpractice matter, a finding that legal experts say stands as a warning in matters where third parties end up with privileged emails in their hands.

Bryan  
Cave

Buchan  
Ingerso

## **Dewey's DiCarmine Taps Seward & Kissel, Drops Pro Se Plans**

Former Dewey & LeBoeuf LLP executive director Stephen DiCarmine on Friday dropped his longtime counsel at Bryan Cave LLP in favor of Seward & Kissel LLP, for a coming retrial over a purported scheme to con the law firm’s financial backers out of tens of millions of dollars before it collapsed in 2012.

Clifford  
Chance

Cory  
Watson

Cozen

## **Saudi Court Calls Clifford Chance License Into Question**

Clifford Chance LLP could be forced to reapply for its license to practice in Saudi Arabia after an advisory appellate court decision suggested that foreign- and Saudi-owned companies should obtain two licenses rather than one to practice in the kingdom, according to a news report.

## **Akin Gump Closing Austin Office As IP Partners Depart**

Akin Gump Strauss Hauer & Feld LLP will soon be shuttering its small, intellectual property-focused Austin, Texas, office, as two of its leading partners there have announced they will be leaving the firm.

## **Shearman & Sterling Joins UK Salary Race By Upping Atty Pay**

Shearman & Sterling LLP has joined what appears to be a salary race in the London legal market by firms looking to woo talent, telling Law360 on Friday that it has bumped up pay for associates by between 7 and 10 percent.

## **The Revolving Door: 6 Tips For Prosecutors Switching Sides**

The lure of a well-compensated gig in private practice has for years coaxed many a government lawyer to make the move through the revolving door to the defense side, but former prosecutors say departing public attorneys should be prepared to roll up their sleeves and embrace a different frame of mind.

## **4 Hot Practice Areas Where Texas Firms Are Hiring**

Transactional partners are the belles of the ball these days among Texas recruiters and headhunters. If you're contemplating making the move to a new firm, take a look at the four practice areas that are especially sizzling in the Lone Star State right now.

## **GC Cheat Sheet: The Hottest Corporate News Of The Week**

More than half of companies say a negligent or malicious employee has caused a security incident, the U.S. Supreme Court resolves a circuit split on constructive discharge, and the Senate condemns the new definition of an Employee Retirement Income Security Act fiduciary. Those stories top the news you may have missed this past week.

## **Money Laundering Inspectors Turn Up Heat On UK Law Firms**

The U.K. legal sector is under scrutiny over its ability to protect itself from money laundering and terrorist financing risks, according to a new HM Treasury report, reflecting a growing national anti-corruption agenda in the wake of the Panama Papers scandal.

## **In Case You Missed It: Hottest Firms And Stories On Law360**

For those who missed out, here's a look back at the law firms, stories and expert analyses that generated the most buzz on Law360 last week.

**JOBS**

O'Conn

DLA  
Piper

Decher

Dewey  
&  
LeBoeuf

Dinse  
Knapp

Dougla  
&  
London

Earthju

Fisher  
Phillips

Gibson  
Dunn

Goldbe  
Segalla

Greenb  
Traurig

Hilder  
&  
Associates

Hill  
Petersen

Hogan  
Lovells

Hoge  
Fenton

Holland  
&  
Knight

Jackson  
Walker

Jenner  
&

Block

Jones  
Day

K&L  
Gates

Kirkland  
& Ellis

Klein  
DeNata

Latham  
&  
Watkins

Levin  
Papant

Lieff  
Cabras

Mayer  
Brown

McCart  
&  
English

McDerr  
Will

Morgan  
Lewis

Morris  
Mannin

Morrison  
&  
Foerste

O'Melva  
&  
Myers

Pepper  
Hamilt

Proskau  
Rose

Quinn  
Emanuel

Richard  
Layton

Ropes  
& Gray

Seward  
&  
Kissel

Shearn  
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Sterling

Sidley  
Austin

Sprous  
Shrade

Squire  
Patton  
Boggs

Taft  
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Thompson  
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Knight

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Venable  
LLP

Watkins  
&  
Eager

Weil  
Gotsha

Weitz  
&  
Luxemburg

Wiley

Rein

Wilson  
Elser

Winste  
PC

Winsto  
&  
Strawn

COMP/

Allergai  
PLC

Alstom  
SA

BP  
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CITGO  
Petrole  
Corp.

Center  
for  
Biologic  
Diversit  
Inc.

Citigrou  
Inc.

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Domini  
Resour  
Inc.

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Electro  
Arts  
Inc.

Experia

Exxon  
Mobil  
Corpor:

Facebo

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Industr  
Regula  
Authori  
Inc.

Globe  
Special  
Metals  
Inc.

Google  
Inc.

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Intel  
Corpor:

JAMS  
ADR

JPMorc  
Chase  
& Co.

KBR,  
Inc.

Kinder  
Morgan

Microsc  
Corpor:

Natural  
Resour  
Defens  
Council

NewPa  
Group

Oracle  
Corpor:

Origin  
Energy

Raymo  
James  
Financi  
Inc.

Royal  
Dutch  
Shell  
PLC

Sierra  
Club

Sinoper  
Shangh  
Petroch  
Co.  
Ltd.

State  
Bar of  
Califorr

Tyson  
Foods  
Inc.

U.S.  
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Comme

Valero  
Energy  
Corpor:

Verso  
Corp.

Yahoo!  
Inc.

Zeugha  
Group  
LLC

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AGENC

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Engine

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Land  
Manag

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Revenue  
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Tribe

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Suquar  
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Swinon  
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Postal  
Service

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Senate

U.S.  
Suprem  
Court

World  
Bank  
Group

LAW FIRMS

Gibson Dunn

Greenberg Traurig

Mayer Brown

Quinn Emanuel

Sidley Austin

Akin Gump

Baker & McKenzie

DLA Piper

Goldberg Segalla

Kirkland & Ellis

Latham & Watkins

O'Melveny & Myers

Weitz & Luxenberg

Winstead PC

Alexander Dubose

Axinn Veltrop

Babst Calland

BakerHostetler

Bancroft PLLC

Barclay Damon

Baron & Budd

Beck Redden

Blank Rome

Bracewell LLP

Bryan Cave

Buchanan Ingersoll

Clifford Chance

Cory Watson

Cozen O'Connor

Dechert

Dewey & LeBoeuf

Dinse Knapp

Douglas & London

Earthjustice

Fisher Phillips

Hilder & Associates

Hill Peterson

Hogan Lovells

Hoge Fenton

Holland & Knight

Jackson Walker

Jenner & Block

Jones Day

K&L Gates

Klein DeNatale

Levin Papantonio

Lieff Cabraser

McCarter & English

McDermott Will

Morgan Lewis

Morris Manning

Morrison & Foerster

Pepper Hamilton

Proskauer Rose

Richards Layton

Ropes & Gray

Seward & Kissel

Shearman & Sterling

Sprouse Shrader

Squire Patton Boggs

Taft Stettinius

Thompson & Knight

Thompson Hine

Venable LLP

Watkins & Eager

Weil Gotshal

Wiley Rein

Wilson Elser

Winston & Strawn

COMPANIES

Center for Biological Diversity Inc.

ConocoPhillips

Exxon Mobil Corporation

Google Inc.

Sierra Club

Allergan PLC

Alstom SA

BP p.l.c.

Bank of America Corporation

Brown Armstrong CPA

CITGO Petroleum Corp.

Citigroup Inc.

Dominion Resources, Inc.

E. I. du Pont de Nemours and Company (DuPont)

Electronic Arts Inc.

Experian

Facebook

Financial Industry Regulatory Authority Inc.

Globe Specialty Metals Inc.

Hess Corporation

Intel Corporation

JAMS ADR

JPMorgan Chase & Co.

KBR, Inc.

Kinder Morgan

Microsoft Corporation

Natural Resources Defense Council

NewPage Group

Oracle Corporation

Origin Energy

Raymond James Financial Inc.

Royal Dutch Shell PLC

Sinopec Shanghai Petrochemical Co. Ltd.

State Bar of California

Tyson Foods Inc.

U.S. Chamber of Commerce

Valero Energy Corporation

Verso Corp.

Yahoo! Inc.

Zeughauser Group LLC

GOVERNMENT AGENCIES

U.S. Supreme Court

U.S. Department of Justice

Securities and Exchange Commission

U.S. Department of the Interior

Bureau of Land Management

U.S. Environmental Protection Agency

Army Corps of Engineers

Bureau of Ocean Energy Management

Bureau of Safety and Environmental Enforcement

COPRAC

Equal Employment Opportunity Commission

Export-Import Bank of the United States

Federal Trade Commission

Fish and Wildlife Service

Internal Revenue Service

Lummi Nation

Muckleshoot Indian Tribe

Nooksack Indian Tribe

Sauk-Suiattle Indian Tribe

Suquamish Tribe

[Swinomish Indian Tribal Community](#)

[Texas Attorney General's Office](#)

[Tulalip Tribes of Washington](#)

[U.S. Army](#)

[U.S. Department of Energy](#)

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